

A
FEW REMARKS
ON
PROPOSED
LUNACY LEGISLATION.

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Proposed Lunacy Legislation.

FROM time to time there arises in the public mind a desire for reform of old standing institutions or customs which are considered out of date, or which no longer meet the wants of the community at large.

Such a desire often results in a parliamentary enquiry with a view to future legislation. When, however, such a movement comes before Parliament, it is generally certain, that notwithstanding much exaggeration in statement, and bitterness of feeling, the common sense of Englishmen will thoroughly sift the evidence, and will sanction no change until convinced that it is both desirable and beneficial, and that reform is absolutely needed in the interests of the public weal.

It is no secret that there has been a certain amount of agitation in this country during the last few years on the subject of the present Lunacy Law. Some abuses are thought to exist, some changes are considered necessary, and in the year 1877 the present Government appointed—on the motion of Mr. DILLWYN, M.P.—a Select Committee of the House of Commons to enquire into the Law of Lunacy generally, and more especially with reference to security afforded by it against violation of personal liberty.

This Committee sat throughout the whole of the session of 1877; many witnesses were examined and in 1878 a report was published.

Considering the amount of valuable evidence taken, and the decided animus of many of the witnesses against the existing law, it is remarkable that but slight reforms were suggested by the Committee, and that but little change was considered desirable.

The enquiry was prolonged beyond its original intention, by the discussion and consideration of many vexed questions. Allegations of the illegal detention of Patients were gone into at length, the said Patients making their own statements, and the Proprietors and Superintendents of various Asylums being called upon for their defence in answer to such allegations.

Various alterations and modifications of certificates were suggested, especially with regard to the order of admission. The comparative merits of Public Asylums, and private licensed houses were discussed; the manner in which Patients were treated in these establishments; their chances of leaving them; their facilities for communicating with the outer world, and various other matters were fully entered upon in 582 folio pages of a Parliamentary report.

It is, of course, desirable that those who wish to form an accurate opinion on this important question, should endeavour, as far as possible, to study the whole of the evidence for themselves, but the following quotations from the report of the Committee may be interesting and instructive even to the general reader.

“The Committee received copious evidence, which led them
“to the conclusion, that although the present system was not
“free from risks which might be lessened, though not wholly
“removed, by amendments in the existing law and practice, yet,
“assuming that the strongest cases against the present system
“were brought before them, allegations of *Mala Fides*, or of
“serious abuses were not substantiated.

“The Committee cannot avoid observing here, that the
“jealousy with which the treatment of Lunatics is watched at the
“present day, and the comparatively trifling nature of the
“abuses alleged, present a remarkable contrast to the horrible
“cruelty with which Asylums were too frequently conducted less
“than half a century ago, to the apathy with which the exposure of
“such atrocities by successive Committees of this House was
“received, both by Parliament and the Country and to the difficulty
“with which remedial enactments were carried through the
“Legislature, while Society viewed with indifference the proba-

“bility of sane people being, in many cases, confined as Lunatics, acquiesced in the treatment of Lunatics as if they were outside the pale of humanity, and would scarcely have considered a proposal to substitute for chains and ill-usage, the absence of restraint, the occupation and amusement which may be said to be the universal characteristics of the system in this country at the present day.”

An additional quotation from the report will be made further on, but the above will shew, that those well qualified to judge, deem the justification insufficient for the popular cry against the Lunacy Law, which it has been the endeavour of a few malcontents to raise.

It has, indeed, been manifest that this is not a question in which the public has felt vitally interested; but merely that various statements of discharged Lunatics have been caught up by the Press, and enlarged upon in a series of sensational articles, in order to awaken sympathy and at the same time to launch invective. Some portion of the medical press, specially those journals which claim to use their power as representatives of the profession are to blame in this matter, for the aim and character of many well-deserving men have been misrepresented and condemned in terms that must be deplored by every thoughtful mind.

So far, however, no material result has been attained, the reform of the existing law has not become one of the leading questions of the day, and the public seem well content to let it remain as before.

Mr. DILLWYN, however, has lately brought in a Bill, in which certain changes are based upon evidence received by him as one of the late Committee; such changes being principally—

1st. The conversion of private asylums into public or state asylums.

2nd. Alteration of the Form or Order of Admission, by which an Order of a Justice of the Peace becomes necessary for the admission of any *Private*, as well as of any Pauper patient.

3rd. The control of the Metropolitan Asylums to be removed from the Commissioners of Lunacy and transferred to the Justices of the Peace ; and various other minor points.

We propose to say a few words on each of these heads. The chief objection against all private asylums, or "Private Houses licensed for the reception of Lunatics" is that the medical man who undertakes the treatment of the patient is the one who derives profit from the detention of such patient in his asylum—that he is thereby placed in a false position—that he lays himself open to the temptation of retaining patients in his house as boarders for the sake of pecuniary considerations, while professing at the same time to act as their Medical Attendant, and to treat them for their mental malady. Surely such an imputation is derogatory to the honor and integrity of the medical profession, while it is opposed to the experience of the Commissioners in Lunacy. It should be remembered that medical men as a body have received the most liberal and enlightened education ; they are continually brought into contact with suffering in all its forms, and have from the first been taught that their medical knowledge gives them a grand opportunity of benefitting their fellow creatures, and, moreover, also of knowing that the reputation of every Licensed House for the care and treatment of the Insane is in direct proportion with the number and rapidity of the recoveries. Moreover it ought to be generally known that from the early part of this century, when the treatment of Lunatics was of the most horrible description, when restraint in its worst forms was the ordinary practice, and when the condition of the insane was not much, if at all, better than that of the beasts of the field, certain proprietors of private asylums, to their honor be it spoken, following closely in the rear of the Friends' Retreat at York (the first asylum in the kingdom under the revered name of TUKE to introduce the more humane system of treatment) and urged on by the noble example set them by the Society of Friends, were amongst the earliest of the Pioneers of that grand reform which was developed and wrought out by the

late Dr. G. HILL and Dr. CONNOLLY in the non-restraint system of the treatment of the insane.

We maintain that the movement begun by them has never suffered in their hands, and that when the welfare, comfort, and proper treatment of the insane had to be considered, proprietors of private asylums were amongst the first to welcome any real reform, and to carry out any good suggestion made in their special departments.

The great palatial buildings erected in the various counties for the reception of pauper lunatics, at the expense of the rate-payers, should hardly be compared with the more modest houses designed for the accommodation of private patients, from the fact that the former are for the most part recent structures, built with all the latest improvements, with every addition which science and education can suggest, and without much regard to cost ; and although they are presided over by men of philanthropic views, and first-class education, we cast no imputation on these gentlemen if we say that they do not exceed proprietors of private houses, in their zeal for the welfare of the patients confided to their care.

Again, looking at the question from the lowest point of view, *i.e.* that of pecuniary profit, it surely would be more to the interest of the proprietor of a private house, and redound more to his credit, for him to be able at intervals to show the statistics of his recoveries, and the number of cases which have left his asylum cured. Here again, however, the contrast with the public asylums would be unfavorable to the private houses, inasmuch as in the former, patients when admitted, are usually recent cases, whereas in the latter every means is often tried before recourse is had to asylum treatment, and thus much valuable time is lost. In a county asylum, also, the patients being paupers are happily and properly employed, either on the farm, in the garden, or at their various trades, whereas in the private asylum, the patients being of a different grade, it is difficult, sometimes impossible, to interest them in any pursuit, or to persuade them into any effort for their own amusement.

And while on this topic, we wish to point out, that in this matter at least, it is impossible to legislate for the rich in the same way as for the poor. When the latter become insane, they are sent with the concurrence of the Relieving Office, a Medical Man's Certificate, and an Order from the Justice of the Peace to the county asylum, and there detained until in the opinion of the Medical Superintendent and the Visiting Committee they are fit to be discharged; whereas in a private asylum, unless they are pronounced to be dangerous lunatics, patients can be removed at any moment by the desire of the relatives or friends who signed the order.

And although the public may protest against the continuance of private houses, yet when it comes directly home to themselves, they, as a rule, shrink from the publicity involved by placing their relatives in a public asylum or hospital. They naturally, and very properly claim the right to act as they choose in the matter; for if the patient's own income is not utilized for his support, the necessary expenditure is defrayed by them, and as a rule they prefer private to public care.

If by the abolition of private asylums no alternative was afforded them, they would either retain their friends at home, or place them away in lodgings, or send them out of the kingdom altogether, any of which plans would be detrimental in most cases of mental disease, and the benefits accruing from asylum treatment would be altogether lost.

It may not, perhaps, be fair to either side to compare private asylums with the large institutions now widely scattered over the kingdom for the reception of pauper patients, but we may be allowed to observe, what we believe is acknowledged by many of the Medical Gentlemen in charge of the latter, that the *large* aggregation of patients together, numbering in many instances many hundreds, is a great disadvantage to the patients themselves with respect to their proper medical treatment and the study of each individual case, and having regard to this fact, if the statistics of private asylums were published annually in the same manner as those of public asylums, the rates of recoveries in the

former would compare favorably with the latter, although hampered with many of the disadvantages mentioned above. In a well conducted private asylum moreover, it is essentially the interest of the Medical Proprietor to study individual cases, and to give each case more of the special care and attention so much needed, than it would be if he was merely a paid official, and we say this without in any way wishing to detract from the merits of the public hospitals and asylums for the insane, or to undervalue the care and kind treatment experienced by patients in those institutions. We maintain that with few exceptions a private asylum is more a hospital for individual treatment than a public asylum, and must necessarily be so from the above fact, viz. : that the patients as a rule receive more of the special care and attention which it is the interest and desire of the Medical Proprietor to give them. And lastly, we may be permitted to point out that, in two measures at least that were thought, and have since been proved to be beneficial to the treatment of the insane, it was left to certain proprietors of private asylums to make the first attempt at their introduction; we allude to Divine Service being regularly performed amongst the patients by a resident chaplain, and the adoption of separate houses or villas on the same estate, and under one management for the reception of patients, more popularly known now as the cottage system. Both were attended with good results, and with regard to the former of these two measures, we believe it is now universally adopted in all the larger asylums.

The abolition of private asylums would certainly be a radical change, but not a reform, in the true sense of the word; and the last state and position of the lunatic—questions somewhat lost sight of in this controversy—would be worse than the first.

It is proposed in Mr. DILLWYN'S Bill to amend the form for the Order of Admission of a patient into a private asylum. At present this order (or more properly request to the Proprietor to receive a patient) can be signed by anyone (not necessarily a relative) who has seen the patient within one month previous to

his admission, and when this Order and two medical certificates, given by two independent medical men who have seen the patient separately, are completed, he can be admitted either into a private asylum, or as a single patient into any private house.

In Scotland, in the case of a private patient, the relative or friend petitions the Sheriff that the patient may be sent to an asylum; and on this petition, together with the two medical certificates being presented to the Sheriff, he orders the admission of the patient into the asylum. It is suggested that this Scotch system should be carried into effect in England, that a relative or a householder should sign a petition to a Justice of the Peace, and that upon this petition, and the production of two medical certificates signed in the usual manner, the Magistrate should authorise the admission of the patient into the asylum.

It does not appear in this proposal that either the relative petitioning, or the Magistrate signing the Order should necessarily see the patient, who need be only visited by the two medical men; and it would, therefore, while relieving the relative of all responsibility, become a mere matter of form. Neither would it, we presume, shelter the medical men signing the certificates; against whom, then as now, an action would lie in case the patient should proceed to vindicate himself by law, for his supposed illegal incarceration. Nevertheless it would appear safer theoretically, that a person should be deprived of his liberty by a magisterial order rather than by the present arrangement, and it would certainly be more satisfactory to the public mind.

The Select Committee report on the point as follows:—

“It seems reasonable that the person who signs the Order should state on the face of it by what right or authority he intervenes. It would, in the opinion of the Committee, tend to prevent abuse if it was required that the Order should be given by a near relative, as in Ireland, or by some responsible person who could be called to account. This would be in

“accordance with the law of Scotland, with regard to the person who petitions the Sheriff. Power might be advantageously given to the Board to direct the substitution for the person signing the Order of any other suitable person willing to take the responsibility. It seems also desirable that the person signing the Order, or some one on his behalf, should be required to visit the patient once in every six months. The Committee are of opinion that the same proceeding should apply to all lunatics, whether with or without property requiring protection, whether private patients or paupers, and whether conveyed to the Lunatic Board of Works’ houses or to hospitals and asylums; and that the protection afforded by annual visits of the Commissioners should be extended to all classes of Insane persons under detention. But they do not attach special importance to the Order emanating from a Magistrate, such as the Sheriff in Scotland, or a Justice of the Peace in England, as this intervention has been shown in many cases to be purely ministerial.”

Mr. DILLWYN proposes that “private” asylums and licensed houses, situated in the Metropolitan districts, and being under the immediate jurisdiction of the Commissioners in Lunacy, shall be in future under the jurisdiction of the Justices in their respective districts, and be subject to “all the provisions of the Act.”

Without prejudice, this would seem to be a sample of backward legislation. Much is thought (and no doubt properly) of magisterial visitation and inspection, and there is a feeling in the public mind that the visits of the unpaid magistracy are likely to be more open and impartial than those of any paid body of officials, however well qualified such officials may be from their past experience and knowledge.

Practically, however, in the case of Lunacy inspections, we believe it to be just the contrary.

The Commissioners in Lunacy, presided over by the greatest philanthropist of his age, are gentlemen of the highest standing, and the medical members of the Board especially, are of skilled

knowledge in the diagnosis and treatment of Insanity, in the management of asylums, and in the multifarious difficulties which are constantly occurring in Lunacy practice. Surely such a body of men, always strictly impartial and just, are far more likely to supervise properly the various asylums in their jurisdiction than any number of Justices of the Peace, many of whom have scarcely ever seen a lunatic, or had any practical acquaintance with Insanity or the management of an asylum. We say this with all due deference to Magistrates, for whom as a body we have the highest respect.

Rather would we see the number of the Commissioners so increased that they could take over the entire jurisdiction and visitation of *all* private asylums in the kingdom, whether in the Metropolitan district or in the Provinces, and we believe that such visitation would practically be more useful than the double jurisdiction now existing in the Provinces, that the standard of asylums would be raised thereby, that the possibility of any abuses would be better guarded against, and that the well-being of the patients would be in all respects advanced.

Various other alterations and additions to the present law are suggested; when the counties have taken over all the existing private asylums the Justices are to appoint a Medical Director. Superior accommodation is to be provided for private patients sent to pauper asylums; persons are to be able to enter asylums as voluntary patients; provision is made for liberation of persons confined as Lunatics in asylums; and lastly, attendants upon the Insane are to be licensed by the Commissioners to act as attendants.

With regard to the first of these, it is proposed that “the
 “Justices of Counties and Boroughs shall appoint for each district
 “a duly qualified medical man to act as Medical Visitor to the
 “public asylums in these Counties and Boroughs, who may be the
 “Superintendent of the chief asylum in the district, and who
 “shall act as Medical Director of all asylums in the district,
 “governing the officials and servants in the different asylums
 “who shall be under his authority, and generally superintending

“the management of all the asylums. The Medical Director so appointed shall be responsible to the Justices in general or Quarter Sessions assembled, who shall determine his salary and provide him with such assistance as may be deemed advisable to enable him to discharge the duties imposed him.”

The appointment of such an officer is not very intelligible, nor does it appear very necessary; is he to be a third official visiting asylums independently of the Commissioners and Magistrates, or subordinate to them? are his functions to be the same as theirs, or is he merely to superintend the management of the different houses, not interfering in any way with the patients? If he is to superintend one of the asylums himself, it does not seem clear how he is to superintend and direct others. If such an official is appointed it is to be hoped that his position and duties will be more clearly laid down than they are at present.

There has always been a great want of accommodation for patients above the position of paupers, who yet cannot afford private asylums; for such it would be highly desirable that some arrangement could be made, whereby they might be received into the county asylums, and be treated with *suitable accommodation as private patients*, instead of being on the same footing as paupers, which we believe now to be the case. This could not be done without increasing the size of the already large county asylums, and would be better met by erecting in their grounds distinct houses for private patients, something like that which now exists in Cornwall, together of course with further additional medical attendance and supervision.

A greater difficulty arises in deciding whether it is desirable that persons should be able to *enter* asylums as voluntary patients. The power of doing so exists in Scotland, but we think we have heard that most of the Superintendents of asylums there would rather be without their voluntary patients than with them. They are generally a disturbing element in the house; they know that they can go when they like, *i.e.*, at three days' notice, and often give that notice to leave before they have been there sufficient

time to derive any benefit from treatment, especially if they find the rules and regulations of the house irksome to them.

Practically we should suppose that if any person is in such a state of mind as to render residence in an asylum necessary or desirable, he would be in a condition to require being placed under certificates, and we would rather deprecate any enlargement of the law in his favour.

The question as to provision made for liberation of persons confined as lunatics in asylums, necessitates our quoting the proposed clause in full, viz. :—“It shall be lawful for any person
“to obtain from the Commissioners in Lunacy an order for the
“visitation and examination by two registered medical persons
“of any person confined as a lunatic in any asylum, and on
“production to the Commissioners in Lunacy of the Certificates of
“two medical persons, approved by the Commissioners in Lunacy
“certifying that after two separate examinations at intervals of
“at least seven days, they are of opinion that any lunatic may,
“without risk or injury to the public, or to the lunatic, be set at
“large, the Commissioners in Lunacy shall order the liberation of
“the lunatic, and upon the authority of such order the Superinten-
“dent of the asylum in which such lunatic is, shall at the
“expiration of ten days from the production of such order
“liberate such lunatic, and previous to the liberation of any
“such person by order of the Commissioners in Lunacy, eight
“days’ notice of such intended liberation shall be given to the
“person at whose instance the lunatic was detained, or, in the
“absence of such person, to the nearest known relative of such
“lunatic, or in the case of a pauper lunatic to the parish or
“union by whom the expense of the maintenance of the lunatic
“was defrayed.”

It seems an invidious thing to attempt to question the propriety of such an arrangement, but it undoubtedly implies that patients from time to time have been and still would be detained in asylums by the Proprietors and Superintendents long after they are sane enough to leave. Surely the possibility of such a thing could not exist were there sufficient visitation and

inspection of all asylums by *skilled* men well qualified to judge, and such inspection would we think be more to the advantage of the patient than the visits of any two medical men who may not have made mental disease their speciality.

We believe that we are right in saying that Mr. JAMES WILKES, one of the Lunacy Commissioners, stated in his evidence before the Select Committee "that it is very rarely "that any question as to the lunacy of the patient occurs; the "whole number of patients discharged under 76th and 77th sections "of the Statute, as far as the Commissioners were concerned, "after two visits, was not more than 10 since 1845." We, ourselves, only remember one case where the visiting Magistrates took upon themselves to order the discharge of a patient from the asylum, and in that instance the gentleman was a dangerous and homicidal lunatic; and we should be inclined to think that so far from patients being kept too long in asylum, the reverse is often the case, and patients are dismissed too soon.

It has always been a matter of difficulty to find proper attendants to take charge of the Insane, whether they are in or out of an asylum, but whether the plan of Commissioners in Lunacy granting licenses to attendants to act as attendants on the production of a certificate from the Superintendent of any asylum for lunatics that they have been employed by him as attendants for a period of not less than six months, and that he considers them well qualified to undertake the care of lunatics as attendants would meet the difficulty has yet to be proved.

We believe that in such cases the country would be saddled with a number of such licensed servants who would simply move about from one asylum to another, exchanging experiences as to where the most comfort and highest wages were to be obtained, and where the attendants had the most chance of joining in the patients' dances and other recreations.

Would it not be better that each individual Superintendent and Proprietor should make the comfort and well-being of his attendants his study, should bear with them in the discharge of their many unpleasant duties, should cheer them on with a few

kindly words, and should make them feel that in trusting his interests (as he is bound to do in a great measure) to them, they may also trust in him as in one who will do his best to make their present position comfortable and their future (when past hard work) secure and happy. If this were more generally done, we venture to think that the standard of attendants would be considerably elevated, and that by elevating them, as a necessary consequence, the position of the patients committed to their charge would be greatly improved.

We have endeavoured in the preceding pages to discuss the main points of Mr. DILLWYN'S Bill, we trust in no carping spirit. The status, comfort and safety of the lunatic are the chief ends to be considered in all lunacy legislation; before these everything else is of a secondary consideration, but we must be pardoned for saying that we greatly doubt whether this Bill, or any other containing such proposals, would really meet the desired end. Insanity is not a crime; it is a dire visitation of the Almighty, but in many cases a curable disease; surely therefore all our desire should be to avail ourselves of the most suitable means in carrying out the treatment we think best adapted for the end; and we are sure that no medical man, whether Superintendent of a public asylum or Proprietor of a licensed house, would stand in the way of any legislation which he conscientiously thought would obtain that end; at the same time that they would most jealously watch any attempt to upset existing arrangements, merely to gratify the morbid taste of those who maintain that everything that is, is wrong, and who would like to air their own crotchets under the idea that they were benefitting their fellow creatures.

